



THE LEGACY IRA: THE CHARITABLE IRA ROLLOVER PART II

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Conrad Teitell, a Principal in Cummings & Lockwood's Private Clients Group was interviewed for an article entitled, "The Legacy IRA: The Charitable IRA Rollover Part II" by Ashlea Ebeling for *Forbes Magazine* website. For a link to this article, please click [here](#).

THE LEGACY IRA: THE CHARITABLE IRA ROLLOVER PART II

by Ashlea Ebeling, Associate Editor, Forbes

Retirees searching for income who also want to give to charity are drawn to charitable remainder trusts and charitable gift annuities. You get lifetime payouts, and the charity gets its share when you die. What if there was a way to fund these with your Individual Retirement Account dollars?

That's the idea of a just-introduced bill in Congress, the Legacy IRA Act (H.R. 5171). It's basically an expansion of the newly permanent charitable IRA rollover law that lets IRA owners make direct gifts of up to \$100,000 to charity from their IRA at age 70 1/2. The Legacy IRA would allow tax-free IRA rollovers for gifts to life income plans, starting at age 65.

"People want to help charity; this is a tax intelligent way of doing it," says Conrad Teitell, a tax lawyer with Cummings & Lockwood and author of the Taxwise Giving newsletter, who led the "Rollover Rangers" to get the IRA charitable rollover law passed back in 2006—and made permanent last December. Now that group of non-profit bigwigs (Teitell is their pro bono counsel) has formed the 501(4)(c) group, the IRA Charitable Initiative, to lobby Congress to get the Legacy IRA passed.

What will your legacy be?

The life-income IRA rollover is basically a way for donors of average resources to combine charitable gifts with retirement income, Teitell says. Think of it like this: it's just your IRA in a different container; instead of your IRA administrator handling it, it's in a charitable remainder trust or a charitable gift annuity. (For more on how these work, see [Does A Charitable Gift Annuity Make Tax Sense For You?](#) And [Charitable Shelter: How CRUTs Cut Capital Gains Tax](#)).

With the basic IRA charitable rollover, once you reach 70 1/2 you can transfer up to \$100,000 a year from your IRA directly to a public operating charity (not a private foundation or a donor-advised fund), without that distribution counting as part of your adjusted gross income. Yet it does count toward the annual required minimum distribution (RMD) you must take from a traditional IRA starting at the same age. You can't double-dip and claim a

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charitable deduction for what goes directly from your IRA to charity. But if you don't normally itemize deductions on your 1040, the rollover is a clear tax win. And even if you do itemize, a rollover might well save you more than taking the IRA distribution into income and then donating it. This strategy works for big donations (if you don't need your IRA dollars at all) and smaller donations (because it can be a more tax efficient way of donating) alike.

The Legacy IRA is meant to appeal to donors who need lifetime income—and have charitable intent. With the Legacy IRA, you could transfer up to \$400,000 a year, starting at age 65, into either a charitable remainder trust or a charitable gift annuity. These provide lifetime income for you and if you so choose, also your spouse (a 5% minimum payout). The tax play is that the transfer from your IRA doesn't count as taxable income. You do pay income tax on the annual payouts.

Once you reach 70 ½, then the annual maximum is \$400,000 combined (if you give \$100,000 to charity in a direct rollover, you could set up a life income plan using up to \$300,000 of IRA dollars, for example.)

What would this cost the Treasury? An estimated \$106 million over 10 years (there would be a four-year trial period). The \$400,000 annual ceiling – and the fact that income isn't assignable (you can't assign the income to charity or family) kept the estimated costs down.

The bill, H.R. 5171, was introduced on May 6th by House Ways and Means Committee members Peter Roskam (R-IL), Earl Blumenauer (D-OR), Erik Paulsen (R-MN) and Pat Tiberi (R-OH).